

REMARKS/ARGUMENTS

The final office action of April 7, 2004 has been carefully reviewed and these remarks are responsive thereto. Entry of the above amendments, and reconsideration and allowance of the instant application are respectfully requested. Claims 2-8, 10-14, 16-18, 21, 22, 26 and 27 remain in this application. Claims 1, 9 and 26 have been canceled without prejudice or disclaimer. Applicants reserve the right to pursue the subject matter of the canceled claims in a continuation application. New claim 28 has been added.

Applicants have received a copy of the PTO/SB/08A form submitted with the Information Disclosure Statement filed on April 30, 2003. While the Examiner initialed the identified U.S. patent documents, he apparently by oversight did not initial the non-patent literature documents identified on the form. Applicants respectfully request that the Examiner return a copy of the PTO/SB/08A form submitted with the Information Disclosure Statement filed on April 30, 2003 including initials next to the non-patent literature documents to indicate that they have been considered.

Preliminarily, applicants note with appreciation the indication that the application contains allowable subject matter. Specifically, claims 16 and 18 have been allowed and claims 2-5 and 10-13 have been objected to for being dependent upon a rejected base claim, but would be allowable if amended to incorporate all the features of their ultimate base claim and any intervening claims. Claims 2, 5, 10 and 13 have rewritten in independent form to incorporate the features of their ultimate base claim. Claims 6-8 have been amended to depend from claim 2 and claim 14 has been amended to depend from claim 10. Also, claim 17 has been amended to depend from claim 16. Thus, claims 2-8, 10-14, 16-18 and 27 are considered allowable.

Claims 1, 6-9, 14 and 26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,434,117 to Momona. Claims 17 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,600,756 to Haviland in view of Momona and claims 22 and 27 stand rejected under 35 U.S.C. § 103(a) over this combination and further in view of U.S. publication 2002/0141418 to Ben-Dor. Applicants respectfully traverse these rejections.

Section 102 Rejection Based on Momona

Claims 1, 9 and 26 have been canceled and claims 6-8 have been rewritten to depend from claim 2 and claim 14 has been rewritten to depend from claim 10. Since claims 2 and 10 are allowable then claims 6-8 and 14 are allowable at least because they depend from one of claim 2 and claim 10.

Section 103 Rejection Based on Haviland and Momona

Claim 17 has been amended to depend from claim 16, which has been allowed. Therefore, claim 17 is considered allowable for the same reasons as claim 16.

Claim 21 has been amended to recite the feature of monitoring a "keep alive" message periodically transmitted from the intended receiving node and, in response to detecting that the "keep alive" message is no longer being periodically transmitted, reverting to a mode wherein the data packets are transmitted to the intended receiving node using the asynchronous delivery mode. Neither Haviland nor Momona alone, or in combination, teaches or suggests such a feature. Thus, claim 21 is patentably distinguishable from the combination of Haviland and Momona.

Section 103 Rejection Based on Haviland, Momona, and Ben-Dor

Claims 22 depends from claim 21. Ben-Dor does not overcome the deficiencies noted with respect to claim 21 and thus claim 22 is also considered allowable.

Claim 27 ultimately depends from claim 16, and is thus allowable for at least the same reasons as claim 16.

New claim 28

New claim 28 depends from claim 21 and is considered allowable for at least the same reasons as claim 21.

Appln. No.: 09/829,880
Amendment dated May 4, 2004
Reply to Office Action of April 7, 2004

CONCLUSION

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.


All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: May 4, 2004

By:



Gary D. Fedorochko
Registration No. 35,509

1001 G Street, N.W.
Washington, D.C. 20001-4597
Tel: (202) 824-3000
Fax: (202) 824-3001
GDF:lab